

## **RESPONSE TO EXAMINER'S REJECTIONS**

Claims 1-63 are pending in aforementioned patent application. Applicant has amended claim 19 to correct a small typographical formality. This amendment is not made for any purpose regarding patentability. Further, no new subject matter has been added to this amended claim.

### ***Claim Rejections - 35 U.S.C. § 102(e)***

Applicant submits that the rejections of claims 1-9, 12-21, 24-26, 53-59, 62, and 63 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,840,857 (“Ghela”) should be withdrawn in view of the arguments discussed below.

#### **Claim 1**

##### ***Ticket Sales***

With respect to independent claim 1, Applicant respectfully submits that the Examiner’s application of Ghela to the claim is based on a slight, yet significant difference in the claim terminology as actually seen in claim 1. In particular, it appears that the Examiner has interpreted the claim terminology “guarantee is in exchange for a stipulation of a percentage of ticket sales revenue in the lottery” to mean there is an exchange for a stipulation of a percentage of one particular ticket sale. However, the claim recites **ticket sales, not ticket sale**. For there to be ticket sales, there needs to be a sale of multiple tickets. Further, that guarantee is in exchange for a stipulation of a percentage the revenue from the sale of the multiple tickets. The multiple tickets may be purchased by the same player or other players.

Ghela is solely focused on a purchase of one lottery ticket and insurance for that one lottery ticket. For instance, the insurance option is provided on each lottery ticket. See Ghela, Figure 2. If a player in Ghela were to purchase multiple lottery tickets, insurance would have to be purchased each time. Ghela likely necessitates this configuration because a player could potentially purchase insurance for one lottery ticket, but not another. See Ghela, col. 4, lines 18-27. As Ghela focuses on insurance on a per-ticket basis, it does not teach the guarantee for multiple tickets as recited in claim 1.

***Prior To***

Further, according to the claim language, the providing of the guarantee “occurs prior to the ticket sales revenue in the lottery.” Under the Examiner’s interpretation, a guarantee occurs before the ticket sales revenue because insurance can be selected by a player before the player actually provides any funds to the lottery. This concept simply does not fit within the claim language if utilized for multiple sales. For instance, if there are two lottery players in Ghela, the first lottery player may select insurance and then provide funds to the lottery. If a subsequent lottery player selects insurance, that insurance comes after, not prior to the ticket sale of the first lottery player. As discussed above, the claim actually recites “ticket sales” not “ticket sale,” and Ghela simply does not teach how a guarantee is provided prior to more than one sale.

***Percentage of Ticket Sales Revenue***

In addition, the Examiner’s interpretation of Ghela prevents the stipulation of a percentage of ticket sales revenue, as required in claim 1. According to the Examiner’s interpretation, the lottery provides a guarantee and in exchange receives an insurance fee. First, that insurance fee is not a percentage of even one ticket sale. The insurance fee is an additional fee, not a percentage of a ticket sale, that is optionally purchased by a player. See Ghela, col. 4, lines 18-26. Ghela even treats the sale of the insurance as a separate concept from the sale of the lottery ticket as it explains that “the payout insurance that may be offered for sale in connection with the lottery option selection sheet 26.” See Ghela, col. 4, lines 27-31. The purchase of the optional insurance in Ghela necessitates that a user pay an additional fee to the lottery, whereas a lack of a purchase of the optional insurance does not necessitate that a user pay the additional fee. There is simply no teaching of a percentage of ticket sales in Ghela.

Second, there is clearly no teaching of a percentage of multiple ticket sales in Ghela. For instance, if a user purchases insurance for a single ticket, insurance is provided to the user in Ghela in exchange for an additional fee. That additional insurance fee simply cannot be construed to be a percentage of any other lottery ticket purchased by the same player or other players. The insurance fee in Ghela pertains to one particular lottery ticket and has absolutely no relevance to any other lottery ticket. Therefore, Ghela does not teach a single percentage of the ticket sales revenue from multiple tickets.

As a result, Applicant respectfully submits that teachings of Ghela are quite distinct from independent claim 1. Therefore, Applicant requests that the rejection of independent claim 1 be withdrawn.

Claims 2-9, 12, and 13

Claims 2-9, 12, and 13 depend from independent claim 1 and are therefore allowable for the reasons discussed with respect to claim 1. Accordingly, Applicant requests that the rejection of claims 2-9, 12, and 13 be withdrawn.

Claim 14

The system recited in independent claim 14 includes a distinction from independent claim 1 other than being a system claim rather than a method claim. Independent claim 14 recites that the guarantee is provided prior to the **ticket sales** in the lottery rather than the **ticket sales revenue** as seen in independent claim 1. Accordingly, independent claim 14 further explains that the guarantee occurs before a sale of multiple tickets. As discussed above, Ghela focuses solely on insurance offered at the time of a ticket sale. Extending Ghela to encompass insurance over a range of ticket sales makes Ghela entirely unworkable as Ghela is focused on insuring each individual ticket at a time to allow for the option of some tickets not being insured. Therefore, Applicant requests that the rejection of independent claim 14 be withdrawn.

Claims 15-20, 24, and 25

Claims 15-20, 24, and 25 depend from independent claim 14 and are therefore allowable for the reasons discussed with respect to claim 14. Accordingly, Applicant requests that the rejection of claims 15-20, 24, and 25 be withdrawn.

Claim 26

Independent claim 26 is allowable for the reasons discussed above. Accordingly, Applicant requests that the rejection of independent claim 26 be withdrawn.

Claim 53

Independent claim 53 is allowable for the reasons discussed above. Accordingly, Applicant requests that the rejection of independent claim 53 be withdrawn.

Claims 54-59, 62, and 63

Claims 54-59, 62, and 63 depend from independent claim 53 and are therefore allowable for the reasons discussed with respect to claim 53. Accordingly, Applicant requests that the rejection of claims 54-59, 62, and 63 be withdrawn.

*Claim Rejections - 35 U.S.C. § 103(a)*

Applicant submits that the rejections of claims 35, 36, and 40-44 under 35 U.S.C. § 103(a) over Ghela, the rejections of claims 10, 11, 22, 23, 27-34, 37-39, 60, and 61 under 35 U.S.C. § 103(a) over Ghela in view of U.S. Patent No. 6,869,362 (“Walker”), and the rejections of claim 45-52 under 35 U.S.C. § 103(a) over Walker in view of Ghela should be withdrawn in view of the arguments discussed below.

Claim 35

The Office Action rejected independent claim 35 on the basis that “Ghela discloses all of the claimed limitations as described above in a manual fashion” and that an automatic or mechanical means is being provided in claim 35 to replace that manual activity. See Office Action, pages 3-4. However, the claim language in claim 35 recites activity that, even if conducted manually, is different from the previous claims addressed by the Office Action. For instance, independent claim 35 recites that a lottery is established. Further, independent claim 35 explains that the establishing of the lottery happens **upon receipt of the guarantee**. In other words, the guarantee needs to be provided for the lottery to even be established so that players can purchase tickets. Applicant respectfully submits that the Office Action does not explain how Ghela teaches this concept. On the contrary, Ghela cannot provide such a teaching because the lottery in Ghela must be established before the insurance is provided so that a player can look at a lottery ticket, as seen in Figure 2 of Ghela, to determine whether or not to purchase insurance. Further, a guarantee may never occur in Ghela as the player in Ghela has the option of playing the lottery without even purchasing insurance. Accordingly, Ghela does not teach the establishing of the lottery upon receipt of the guarantee. Therefore, Applicant requests that the rejection of independent claim 35 be withdrawn.

Claims 36 and 40-44

Claims 36 and 40-44 depend from independent claim 35 and are therefore allowable for the reasons discussed with respect to claim 35. Accordingly, Applicant requests that the rejection of claims 36 and 40-44 withdrawn.

**Claims 10, 11, 22, 23, 27-34, 37-39, 60, and 61**

Claims 10 and 11 depend from independent claim 1, claims 22 and 23 depend from independent claim 14, claims 27-34 depend from independent claim 26, claims 37-39 depend from independent claim 35, and claims 60 and 61 depend from independent claim 53. Therefore, these claims are allowable for the reasons discussed above with respect to each of the corresponding independent claims. Accordingly, Applicant requests that the rejection of claims 10, 11, 22, 23, 27-34, 37-39, 60, and 61 withdrawn.

**Claim 45**

With respect to independent claim 45, Applicant respectfully submits that the Office Action does not explain how the combination of Walker in view of Ghela teaches the establishing of the game of chance **upon receipt of the guarantee** so that the players can make wagers in the game of chance. According the language of claim 45, players do not even have the capability of making wagers in the game of chance unless there is a guarantee. As discussed above, the player in Ghela is capable of playing the lottery without purchasing the optional insurance. Further, Walker explains that some play “would not be insured.” See Walker, col. 31, lines 62-64. Accordingly, both Ghela and Walker allow for a player to make a wager without a guarantee. Therefore, neither Ghela nor Walker teach establishing of the game of chance upon receipt of the guarantee so that the players can make wagers in the game of chance. Thus, Applicant requests that the rejection of independent claim 45 be withdrawn.

***Conclusion***

Therefore, because all the claims limitations are not taught or suggested by Ghela alone or in combination with Walker, these references cannot be used as the basis of a rejection under 35 U.S.C. §103(a). Further, if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending there from is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). In light of these arguments, Applicant has overcome the Examiner’s 35 U.S.C.

§103(a) rejections. Thus, the Examiner is respectfully requested to withdraw the rejections with respect to claims 1-63.

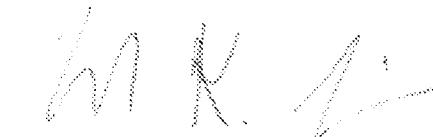
## REMARKS

Applicant has complied with all requirements made in the above-referenced communication. In view of the foregoing, it is respectfully submitted that the pending claims in the application are in condition for allowance. Allowance of the pending claims at an early date is courteously requested.

If, for any reason, the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call Applicant's undersigned representative, Samuel K. Simpson at **(310)-496-4255** to discuss the steps necessary for placing the application in a condition for allowance.

Respectfully submitted,

PATENT INGENUITY, P.C.



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